

IN RE: PETITION FOR SPECIAL HEARING • BEFORE THE  
NE/S Downes Road, 2600' SE of  
the c/l of Sampson Road • DEPUTY ZONING COMMISSIONER  
(Parcel A, Estate of H.W. Tracey) • OF BALTIMORE COUNTY  
7th Election District •  
3rd Councilmanic District •  
Case No. 93-337-SPH  
Robert A. Dien, Personal Repr.  
Estate of Horace W. Tracey,  
Deceased - Petitioner

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing filed by the owner of the subject property, the Estate of Horace W. Tracey, Deceased, by its personal representative, Robert A. Dien, and the Legatees of the Estate, Carroll L. and Elsie M. Rosier. The Petitioners request a special hearing to approve the non-density transfer of 3.459 acres (Parcel A), in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petitioners was John L. Calhoun, Esquire, attorney for Carroll L. and Elsie M. Rosier. Also appearing on behalf of the Petition was Erich Schmitt, Registered Property Line Surveyor, who prepared the Plan to accompany the Petition filed. There were no Protestants.

Testimony indicated that the subject property, known as Parcel A of the Lands of Horace W. Tracey Estate, consists of 3.459 Acres, more or less, zoned R.C. 2 and is located on Downes Road in the Parkton area of northern Baltimore County. Said property is located immediately adjacent to property owned by Mr. & Mrs. Carroll Rosier, the Legatees of the subject site. Testimony indicated that the Rosiers are desirous of acquiring the subject 3.459 acres to add to their current land holdings.

A similar non-density transfer request came before this Deputy Zoning Commissioner regarding adjoining property owned by James C. Lindsay. In that case, Mr. Lindsay requested a non-density transfer for purposes of providing a buffer for his dwelling from Downes Road. It is also the intent of the Petitioners in the instant case to acquire the subject property for use as a buffer and agricultural purposes. More specifically, the Petitioners intend to leave the property in its present wooded state.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 4<sup>th</sup> day of June, 1993 that the Petition for Special Hearing requesting approval of the non-density transfer of Parcel A of the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) The relief granted herein is limited to the non-density transfer of the subject 3.459 acre parcel, identified as Parcel A on Petitioner's Exhibit 1, for agricultural purposes only. Accordingly, any activity

on the subject property shall be in strict compliance with the Forest Conservation Act.

3) Within sixty (60) days of the date of this Order, the Petitioners shall have recorded in the Land Records of Baltimore County a new deed incorporating the relief granted herein and the terms and conditions related to same. A copy of the recorded deed shall be submitted to the Zoning Administration Office for inclusion in the case file.

4) At no time shall parcel A be included as acreage in the calculation of density units applicable to the Rosier property at 20305 Downes Road.

5) When applying for any building permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TWK:bjs

ORDER RECEIVED FOR FILING  
Date 4/18/93  
By [Signature]

- 3 -

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

Suite 113 Courthouse  
400 Washington Avenue  
Towson, MD 21204

(410) 887-4386

June 4, 1993

John L. Calhoun, Esquire  
1200 E. Joppa Road  
Towson, Maryland 21286

RE: PETITION FOR SPECIAL HEARING  
NE/S Downes Road, 2600' SE of Sampson Road  
(Parcel A of the Estate of Horace Wilson Tracey - Deceased)  
7th Election District - 3rd Councilmanic District  
Robert A. Dien, Personal Representative for the Estate of  
Horace Wilson Tracey, Deceased - Petitioner  
Case No. 93-337-SPH

Dear Mr. Calhoun:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TWK:bjs

cc: People's Counsel

File



## Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at Downes Road

which is presently zoned R.C.2

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve.

A non-density transfer from the Estate of Horace Wilson Tracey to Carroll Leroy Rosier for the reasons set forth in the attached statement.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Party: Carroll Leroy Rosier  
Elsie Marie Rosier  
20305 Downes Road  
Parkton, Maryland 21120

Attorney for Petitioner:  
John L. Calhoun  
1200 E. Joppa Road  
Towson, MD 21286

Legal Owner: Robert A. Dien, Personal Representative  
Estate of Horace Wilson Tracey, Deceased

Signature: *Robert A. Dien*  
(Type or Print Name)  
Signature: *John L. Calhoun*  
(Type or Print Name)

Suite 110, 221 S. Main Street 879-2633  
Bel Air, MD 21014  
City, State, Address and phone number of legal owner, contract purchaser or representative to be contacted.  
John L. Calhoun - Representative  
1200 E. Joppa Road, Towson, MD 21286

OFFICE USE ONLY  
RECEIVED DATE OF HEARING  
Responsible for Hearing

ALL  
RECEIVED BY: *R.T.* DATE: *4-2-93*  
ITEM # 349

#### STATEMENT TO ACCOMPANY PETITION FOR SPECIAL HEARING

Mr. Carroll Leroy Rosier and Mrs. Elsie Marie Rosier are long time residents at 20305 Downes Road. Under the Last Will and Testament of Horace W. Tracey, Mr. Rosier was devised a one third interest in real estate consisting of a 120 acre farm. Mr. Rosier is only interested in availing himself of several acres of this devise. As it would border his homestead as shown on the attached plat. See Parcel "A". Mr. Rosier does not want to develop this property which is all wooded and unimproved. He wants to prevent development of the parcel by another purchaser i.e., encroachment along his property lines.

There has also been filed a Petition for Special Hearing by Mr. & Mrs. James C. Lindsay, the adjacent landowner to Mr. Rosier who have contracted to purchase 2.173 acres of land, parcel "B" on the plat, from the Estate of Horace W. Tracey, also for non-development purposes.

As shown on the plat the remaining land of the Horace W. Tracey Estate would be approximately 114 acres +. The present area of Mr. Rosier's property is 1 1/2 acres +. Mr. Rosier wishes this transfer to be made for non-density purposes and does not want a resubdivision of the Tracey property for more than his one existing lot under the existing R.C.Z. zoning. The total size of the proposed lot adjustment would be an add on of 3.459 acres with no development or building rights to Mr. Carroll Rosier's property.

ITEM # 349

ZONING DESCRIPTION  
ESTATE OF HORACE W. TRACY  
LOCATED ON DOWNES ROAD  
SEVENTH ELECTION DISTRICT  
THIRD COUNCILMANIC DISTRICT

#### DESCRIPTION "A"

BEGINNING at a point in the center of Downes Road which has a paving width of 20 feet at a distance of approximately 2600 feet southeasterly of the centerline of Sampson Road which has a paving width of 24 feet. As recorded in Deed Liber 6785 Folio 143 contained within the following courses and distances:

1. N 52°09'10" E 412.83 feet;
2. N 00°12'53" W 480.78 feet;
3. S 52°09'10" W 354.58 feet;
4. N 37°50'50" E 180.75 feet;
5. S 52°09'10" W 361.33 feet;
6. 200.27 feet along the arc of a curve to the left having a radius of 2745.00 feet and subtending a chord of S 40°34'16" E 200.23 feet to the point of beginning.

CONTAINING 150,677 square feet or 3.459 acres of land more or less.



ITEM # 349

#### CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 7A Date of Posting: 4/28/93  
Posted for: Special Hearing  
Petitioner: Robert A. Dien, Personal Representative for the Estate of Horace Wilson Tracey, Deceased  
Location of property: NE/S Downes Rd., 2600' SE of Sampson Rd.  
Location of Sign: Along road way on property to be zoned  
Remarks: [Signature]  
Posted by: [Signature] Date of return: 4/30/93  
Number of Signs: 1

#### CERTIFICATE OF PUBLICATION

TOWSON, MD., April 16, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on April 15, 1993.

THE JEFFERSONIAN,

*S. Zate Orlan*  
Publisher



BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT  
No. 131126  
DATE: 3-22-93  
AMOUNT: \$250.00  
RECEIVED FROM: JOHN L. CALHOUN  
FOR: 03A03H0089MICHRC \$250.00  
VALIDATION ON SIGNATURE OF CASHIER  
PINK - AGENCY YELLOW - CUSTOMER

93-337-SPH

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT  
No. 120709  
DATE: 5/6/93  
ACCOUNT: R-001-6150  
AMOUNT: \$35.00  
RECEIVED FROM: T. O'Connell  
FOR: 93A FOR SPECIAL HEARING  
ITEM # 349  
03A03H0089MICHRC \$35.00  
VALIDATION ON SIGNATURE OF CASHIER  
PINK - AGENCY YELLOW - CUSTOMER

Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 at  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-337-SPH (Item 349)  
RE/S: Downes Road, 2600' SE from c/l Sampson Road  
7th Election District - 3rd Councilmanic  
Legal Owner(s): Robert A. Diem, PR Estate Horace Wilson Tracey  
Contract Purchaser(s): Carroll Leroy Rosier and Elaine Marie Rosier  
HEARING: THURSDAY, MAY 20, 1993 at 9:30 a.m. in Rm. 106, Office Building.

Special Hearing to approve a non-density transfer from the Estate of Horace Wilson Tracey to Carroll Leroy Rosier.

Arnold Jablon  
Director

cc: ~~Robert A. Diem~~ Robert A. Diem

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Carroll + Elaine Rosier  
John L. Calhoun, Esq.

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Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353

May 14, 1993

John L. Calhoun, Esquire  
1200 E. Joppa Road  
Towson, MD 21286

RE: Case No. 93-337-SPH, Item No. 349  
Petitioner: Robert A. Diem, Personal Representative, Estate of Horace Wilson Tracey  
Petition for Special Hearing

Dear Mr. Calhoun:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on April 2, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

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Maryland Department of Transportation  
State Highway Administration

G. James Lightizer  
Secretary  
Hal Kassoff  
Administrator

HELENE KERNING  
Ms. Julia Winarski  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Baltimore County  
Item No.: 4349 (RT)

Dear Ms. Winarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small  
for John Contestabile, Chief  
Engineering Access Permits  
Division

My telephone number is 410-333-1350

Teletypewriter for Impaired Hearing or Speech  
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free  
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration and  
Development Management

DATE: April 14, 1993

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):  
Item Nos. 320, 340, 341, 346, 349, and 350.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey W. Long  
Division Chief: Camyl L. Kerns

PK/JL:lw

320.ZAC/ZAC1

BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
INTER-OFFICE CORRESPONDENCE

April 20, 1993

TO: Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management

FROM: J. Lawrence Pilson  
Development Coordinator, DEPRM

SUBJECT: Zoning Item #349  
Diem Property; Downes Road  
Zoning Advisory Committee Meeting of April 12, 1993

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

1. Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

JLP:jbm

DIEM/TXTRMP

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee

DATE: April 16, 1993

FROM: Jerry L. Pfeifer, Captain  
Fire Department

SUBJECT: Zoning Petitions

#325	No comments
#327	No comments
#332	No comments
#340	No comments
#341	No comments
#342	No comments
#343	No comments
#344	No comments
#345	No comments
#346	No comments
#347	No comments
#348	No comments
#349	No comments
#350	No comments
#351	The building shall be built in compliance with the applicable provisions of the Life Safety Code and the County Fire Code.
#352	No comments

JLP:dal

cc: File

RECEIVED  
APR 20 1993  
ZADM

BALTIMORE COUNTY, MARYLAND

OFFICE OF ZONING ADMINISTRATION

and

DEVELOPMENT MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Wirth - SWM (2, Pre-App Permit Only) DATE: July 14, 1994  
Mr. Stewart - EIRD  
Mr. Wilson - WES  
Mr. Richards - ZADM, Development Control  
Ms. Rorke - ZADM, Street Names & House Numbers  
Mr. Bowling - DEB (3)  
Mr. Weiss - Sanitation  
Mr. Beaumont - Office of Law, Real Estate  
Capt. Paull - Fire Dept. - 1102 F  
Mr. Grossman - Rec & Parks  
Mr. Small - SWA  
Mr. Butcher - CSP  
Mr. McDaniel - Strategic Plan., Development Review (3)

FROM: Donna K. Dennis

SUBJECT: Project Name: Horace Tracey Estate  
Project No.: 94130 M  
District: 7 c 3  
Engineer: Highland Survey Assoc., Inc.  
Phone No.: 836-1238  
Project Name: DOWNES ROAD

ACTION REQUESTED: ☒ Panhandle Minor CRG Plan Review  
☒ Minor Subdivision Review  
☒ Pre-approved Building Permits(\*\*)

(\*) Please provide separate comments for Building Permits.

(\*) NOTE: Please detail any comments where permit cannot be approved, but subdivision approval is acceptable.

Please review the attached plan for compliance with current regulations and return comments to our office by August 4, 1994. If you have no comments or do not need to review this plan, please indicate by placing your initials here  
NONRESPONSIVENESS BY THE AFOREMENTIONED DATE IS CONSIDERED TO BE CONCURRENCE BY YOUR OFFICE OF THE PLAN.

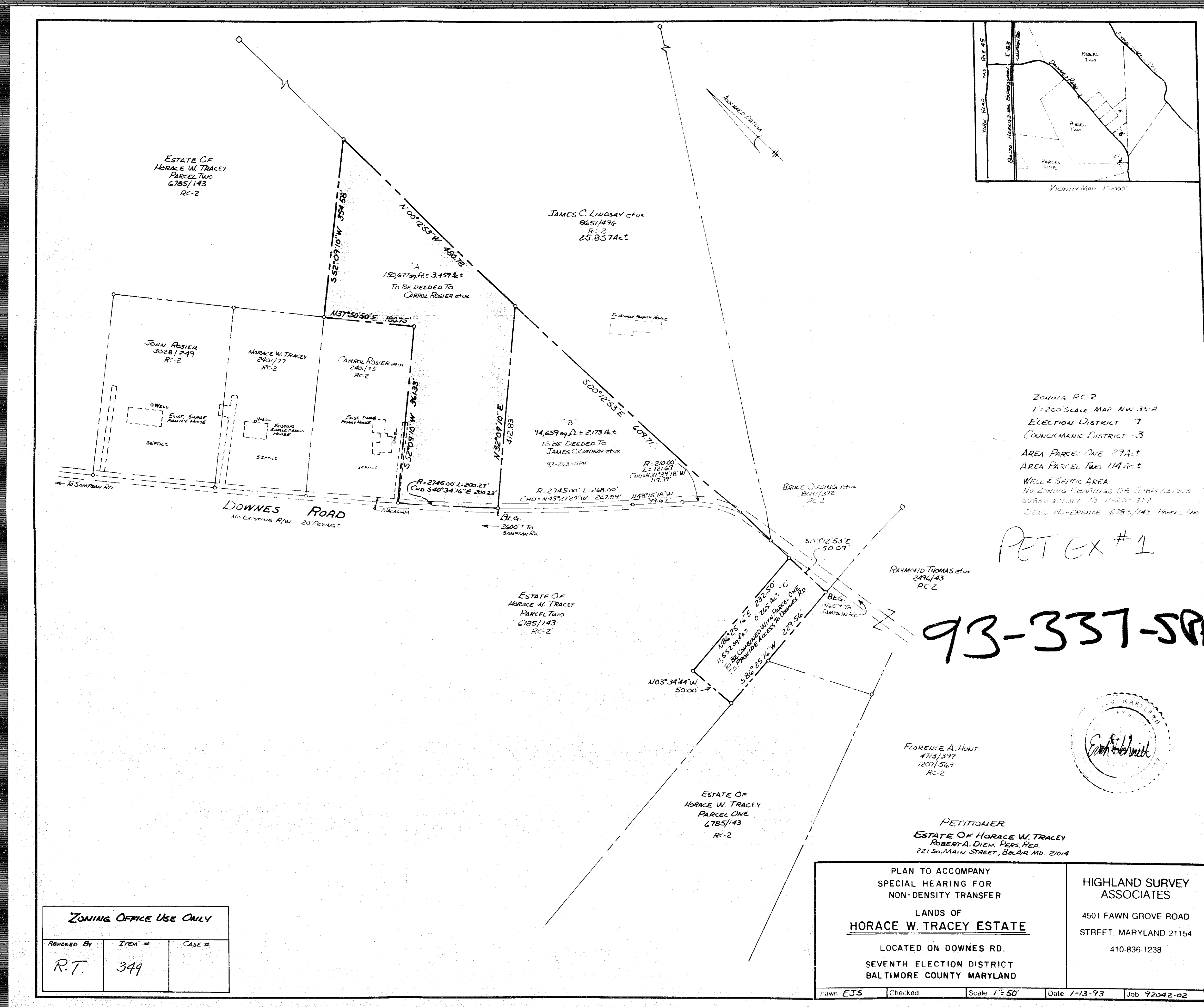
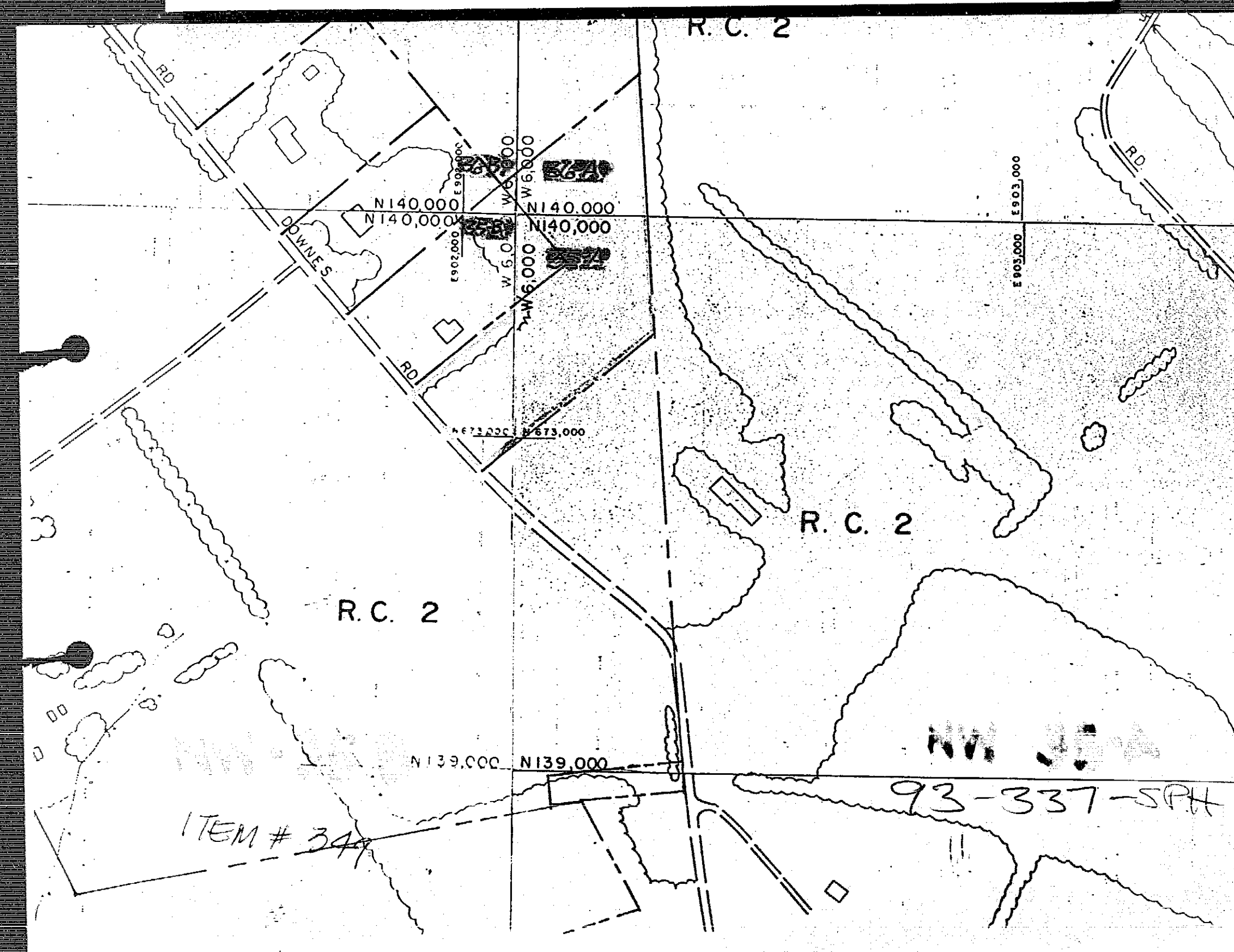
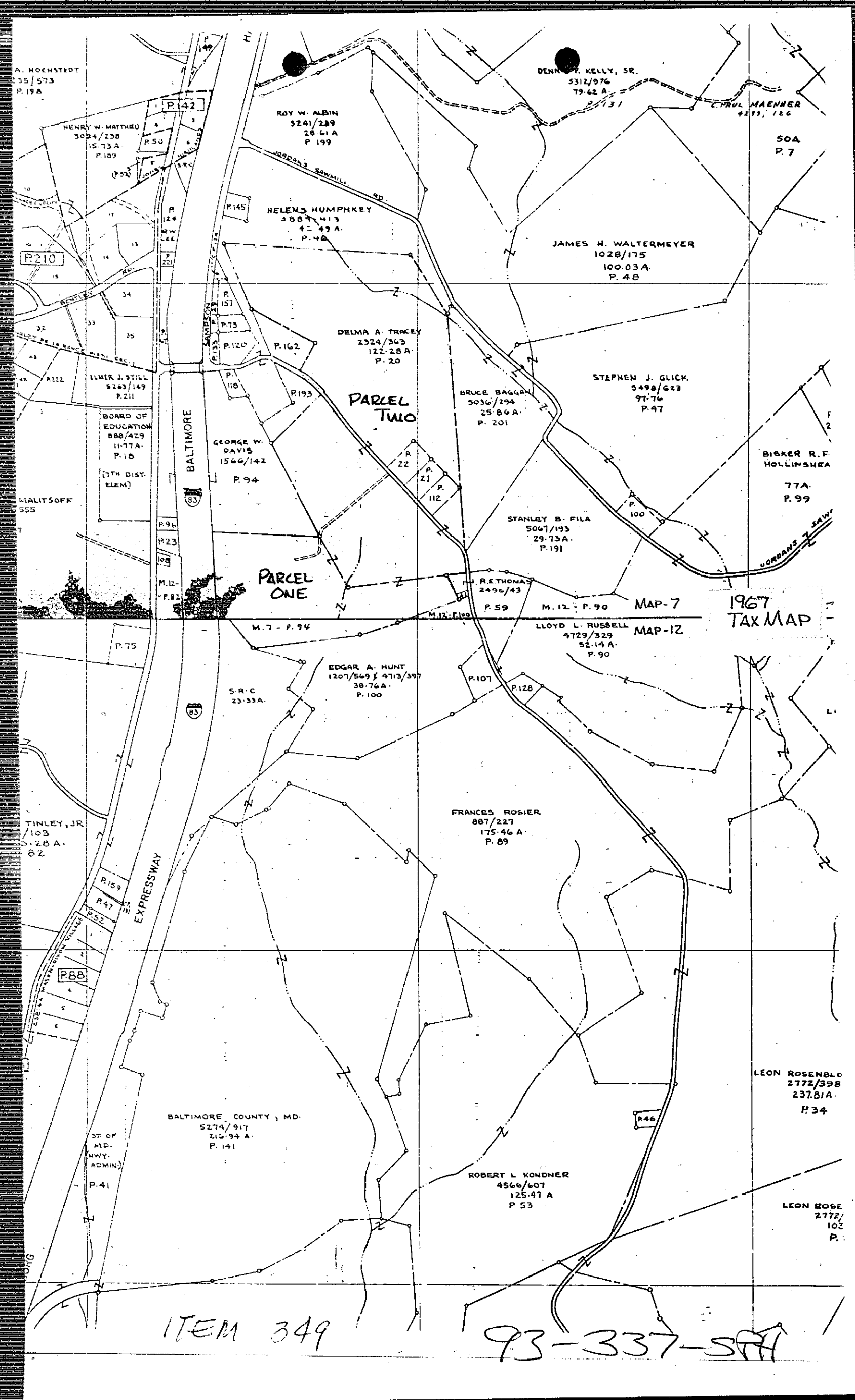
Thank you for your timely attention to our request.

DKD:bje Comments Date: 8/31/94 Comments Typed: 8/31/94

Provide a zoning history by case number on the plan including the date of the last Order, what was requested, granted or denied and listing and indicating compliance with any restrictions including, but not necessarily limited to, case numbers #93-263, #93-337, and #94-493.

Catherine A. Milton, Planner I





ZONING OFFICE USE ONLY		
REVIEWED BY	ITEM #	CASE #
R.T.	349	